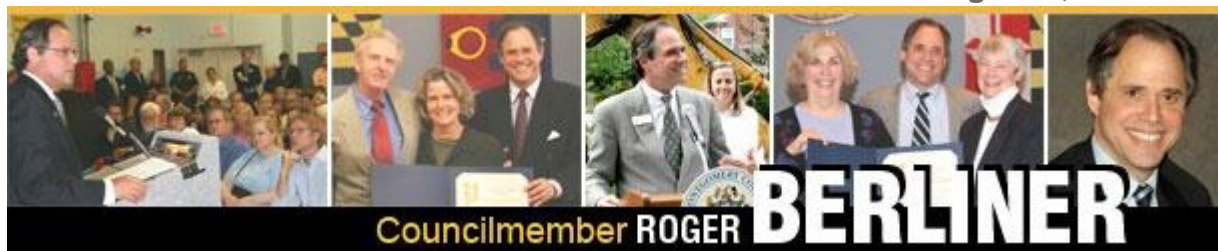


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August 5, 2010



The Berliner Brief

Dear District 1 Residents and Friends,

July certainly went out with a bang, not a whimper, and so did our Council. At our last full Council session, we had everything from a briefing from Pepco, to passage of the final revisions to our master plan for the Purple Line, to introduction of legislation that would finally reform our disability system, to finalizing our Home Energy Loan Program (HELP) regulations. And there was more.

August will be quieter - for you and for us. Many of you will spend time with your families at the beach or some other wonderful place in anticipation of the school year starting back up at the end of the month. I hope that you have a terrific August. Our work picks up after the primary elections in September, and I will be back in touch with you then. So, until then, enjoy, enjoy, enjoy.

Sincerely,

Roger Berliner
Councilmember, District 1

Keeping the Lights On

Now that we are well on the other side of the latest devastating storm to hit our community, it is time to begin the hard work of looking at the reliability - or unreliability - of Pepco's electric distribution system.

What you know and what I know right now is this - in many District 1 neighborhoods and throughout our county, our electricity goes out too often and for too long. On windy days and on days in which you can not see a cloud in the sky or feel a breeze on your face - our power goes out. For seniors living in 95 degree heat without electricity, for businesses that can not open, for mothers taking care of their children - the current state of affairs is simply not acceptable. And my office has fielded your complaints and heard your frustrations rise to the breaking point.

One of the many frustrations I feel in this situation is that our



county has no -- I repeat no -- authority or jurisdiction over Pepco. Pepco is 100% regulated by a state independent regulatory agency, the Maryland Public Service Commission (MPSC), a 5 member Commission that is appointed by the Governor and confirmed by the Maryland State Senate. Local jurisdictions like ours have no ability to demand or require Pepco to do anything. That is one of the reasons why I sponsored, and the Council passed, [legislation that for the first time authorized the County to participate in proceedings before the MPSC](#) - so that we could formally make our case to them on issues affecting Pepco and their rates.

This is also why all of my colleagues joined me in sending a [letter to the Chairman of the Maryland Public Service Commission urging the Commission to open an investigation into the reliability of Pepco's service](#). We need the regulators who have direct control over Pepco to tell them that enough is enough and to order them to make sufficient investments in its system to meet customer expectations.

Here are the three basic steps that I believe the Commission should follow:

1. Establish a clear "standard" of reliability by which to hold Pepco accountable, a standard that truly meets our needs. A portion of Pepco's "return on equity", as authorized by the MPSC, should be explicitly linked to Pepco meeting that standard in the future;
2. Determine, neighborhood by neighborhood, the current level of reliability; and
3. Focusing first on the areas that experience the greatest outages for the longest periods of time, require Pepco to invest in system upgrades that will increase reliability to acceptable levels;

It is important to remember that there is "no free lunch." Upgrades to the system will be paid for by ratepayers - that's you and me. That is one reason why it will be important that Pepco work with us to identify the most cost-effective means by which we can make the most dramatic improvements.

Based on my direct conversations with the President of Pepco, I am convinced that they have come to the same conclusion - the system needs to be upgraded. They also appreciate that they did a terrible job in communicating with customers in this last storm. They have pledged to work with us to come up with an appropriate plan of action. And it is action that we need.

If you share our view that it is time for action, then I urge you to individually contact the MPSC, with copies to the [Governor](#) and your [state legislators](#), by calling the MPSC at (410) 767-8000, Toll Free at 1-800-492-0474, clicking [here](#), or writing them at
Maryland Public Service Commission
William Donald Schaefer Tower
6 St. Paul Street, 16th Floor
Baltimore, MD 21202

HELP Needs Help



At our last Council session, the full Council approved the regulations that were necessary to implement the Home Energy Loan Program (HELP) that I sponsored and our Council unanimously passed.

This program, based on similar programs that were started by local governments in California and other places in the United States, provides low-interest funds, up to \$25,000, to eligible homeowners to retrofit your homes with cost-effective energy efficiency and renewable energy measures. This program should allow you to reduce your utility bills and your greenhouse gas emissions by up to 33%, increase the value of your home, and create good, "green" jobs in Montgomery County. This is a win-win-win situation,

which is why the legislation was supported by an unusual alliance of realtors, home construction

companies, and the Sierra Club.

The cost of the measures installed is recovered through an annual property tax assessment. Spread out over 15 years, this property tax assessment, like other assessments used to recover the costs of sewers and other improvements, "runs with" the property, not the individual homeowner who makes the investment. It is this last aspect of the program that is critical to its success. If you as a homeowner were obligated to pay off the entire amount owed, you might naturally only make an investment that would pay for itself while you owned it. But if you can make an investment that is paid for by the next homeowner who will enjoy the benefits as well, all with proper notice of course, you will invest as much as is found to be cost-effective over the 15 year time horizon.

While Montgomery County is the only county in the Washington region to have adopted this program to date, 200 jurisdictions throughout the country are now in various stages of implementing programs like this. At least they were until

On July 6, the Federal Housing Financing Authority, the federal regulators who control \$5.6 trillion (yes trillion) in mortgages provided by Freddie Mac and Fannie Mae, issued a statement in which it concluded that this use of property tax assessments by local governments was too radical for its tastes. They ruled that our program would violate a homeowner's mortgage unless consent was given, and that, among other things, any jurisdiction that implemented such a program would face higher costs of providing mortgages.

Needless to say, our county is not going to put you or any homeowner in such a position, so we have put our program on pause until this gets worked out. The State of California has sued FHFA, as have several local jurisdictions and the Sierra Club, arguing in part that FHFA has no basis to overturn a local government's determination of what is a proper property tax assessment. I have been working with a coalition of local governments across the country that are trying to find a way forward with FHFA, or failing that, asking Congress to intervene. I have [written our excellent congressional delegation](#) asking them to overturn FHFA's decision if FHFA can not be persuaded to do so voluntarily. I am going to do everything I can to fight for this program.

Disability Reform

On July 27, I co-sponsored legislation that would finally require a two-tier service-connected disability retirement system, one that provides benefits for partial incapacity and total incapacity. This system would be identical to the system currently in place for members of the Montgomery County Career Fire Fighters Association, and would create one system for all other County employees. The legislation is in response to the very high percentage of police officers who are currently awarded disability retirement. It is estimated that the County would save more than \$2.6 million each year in the County's retirement contribution if it extended the two-tier system to all employees.

Under provisions of the bill, co-sponsored by my colleagues Councilmembers Trachtenberg, Andrews, and Ervin, a County employee who retires due to service-connected disability would receive either a partial incapacity benefit of at least 52.5 percent of final earnings or a total incapacity benefit of at least 70 percent of final earnings. The current system for all employees, except fire and rescue employees, provides for a service-connected disability retirement benefit of at 66.7 percent of final earnings for both partial and total incapacity.

I had sought to require a two-tier system more than a year ago, but that effort failed on a 4-4 vote. My colleagues voting against the measure thought that this should be negotiated as part of the collective bargaining process with our police. The parties did negotiate, and this two-tier system was not adopted. Now, I for one, believe it is proper for us as a legislative body to determine as a matter of public policy that a two-tiered system is required to save money and minimize abuse. A public hearing on the bill is tentatively scheduled for Sept. 28.

BRAC Update

While County and State officials are busy preparing designs for mitigating the expansions at National Navy Medical, our Congressional delegation has been hard at work to secure the necessary funds to pay for these mitigation efforts.

Rep. Chris Van Hollen and Senators Barbara Mikulski and Ben Cardin along with the Virginia representatives are focused on including an appropriation in the Fiscal Year 2011 Defense Appropriations bill which should be passed and enacted into law by October 1, 2010. On July 27th, the House Defense Appropriations Subcommittee marked-up the FY11 Defense Appropriations bill and included Rep. Van Hollen's language to appropriate the funds for transportation projects around BRAC-impacted military hospitals. The full House Appropriations Committee and then the full House and Senate should take up the bill after the August recess and a conference committee should write the final version of the FY2011 Defense Appropriations bill.

In addition, on July 22nd the Montgomery County Planning Board considered mandatory referrals for the Jones Bridge Road shared use path and for the four main intersection improvements: Old Georgetown Rd (MD 187)/ Cedar Lane, Rockville Pike (MD 355)/Cedar Lane, Rockville Pike (MD 355)/Jones Bridge Rd. and Connecticut Ave. (MD185)/Jones Bridge Rd. In the coming weeks the Planning Board will also consider the MD 355 Crossing at Medical Center Metrorail Station Study and the Chevy Chase Valley access study as well as the West Cedar Lane shared use path plans. The Planning Board's information is available here <http://www.montgomeryplanning.org/transportation/brac/index.shtml> for your review.

Purple Line



On July 27, our Council unanimously approved revisions to the Purple Line Functional Master Plan that address station locations, alignment of some portions of the route and access points to the adjacent Trail. As you know, I have long been a supporter of this important mass transit project, while at the same time fighting to mitigate the impact it will have on the trail and adjacent property owners. That is why I left no stone unturned in exploring single tracking, as well as a wireless system that can more effectively allow for a full tree canopy.

The Town of Chevy Chase urged me to convey their concerns about safety to MTA, and I did so in no uncertain terms. In addition, concern has been expressed that the Purple Line would be built without the Trail. *This project does not move forward unless the rail and Trail are hand and glove.* And access to the Trail is now planned to be available from more than 20 separate locations.

I believe that it is critical to the quality of life of my constituents to try as hard as we can to mitigate impacts to adjacent residences who live all along the Trail. This has been and will continue to be my priority.

An Update on the Organizational Reform Commission

On July 20, the County Council named eight people to the new Montgomery Organizational Reform Commission that I sponsored and the Council supported. The Commission, composed of County residents who are experienced in government, business or non-profit service delivery, will help guide the County toward creating efficient models of providing services and operations and will make recommendations for potential reorganization or consolidation of functions performed by County government and County-funded agencies.

The Council and County Executive each designated four members to serve on the commission and each recommended one member as co-chair. The Council nominees to the commission were Scott Fosler of Chevy Chase, who has served as President of the National Academy of Public Administration; Daniel

Hoffman of Rockville, who for the past nine years has experience managing organization transformation and process analysis efforts as a senior associate for PricewaterhouseCoopers' Washington Federal Practice; Vernon H. Ricks, Jr., of Potomac, a former Takoma Park City Councilmember who has served on the boards of directors of Maryland Municipal League and the National League of Cities; and Len Simon of Bethesda, the President of the Edgemoor Citizens Association and an employee of the Washington-based firm Simon and Company that works with local governments.

County Executive Leggett's nominees to the commission were M. Christina Echavarren of Bethesda, an executive with a non-profit organization who is experienced in modernizing budget and accounting processes; Joan Fidler of Bethesda, the president of the Montgomery County Taxpayers League; Susan Heltemes of Silver Spring, who has led and managed teams for nationally recognized research firm Westat; and Richard Wegman of Bethesda, the former chief counsel and staff director of the U.S. Senate's Committee on Governmental Affairs. Mr. Ricks and Mr. Wegman were named co-chairs of the Commission.

The Commission must solicit suggestions for potential reorganization or consolidation of functions performed by County government and County-funded agencies by meeting with elected officials; County residents; business and community leaders; County and agency employees; bargaining unit representatives; and other stakeholders. The Commission will then draft and adopt written criteria to evaluate which suggestions merit further consideration by the Commission. The criteria must include a minimum level of potential cost savings (for example, \$1 million per year); a standard for ease of implementation; and a measure of acceptable service level impact.

Commissioners met for the first time as a body on Wednesday July 28, 2010 and decided to meet on Monday's from 4:00-6:00 pm in August and return to Wednesdays in September. The Commission must submit a status report of its progress and a work plan to the Council and the Executive no later than Sept. 30. Its final report is due by Jan. 31. The report must contain the Commission's recommendations to reorganize or consolidate functions performed by County government or County-funded agencies.

For more information or questions please contact the Commission at:
Organizational.Reform@montgomerycountymd.gov.

Odds and Ends

Bethesda Circulator Announces New Hours of Service: The Bethesda Circulator, the free trolley that runs every ten minutes and connects parking garages and Metro in Downtown Bethesda has announced new hours of operation:

- Monday through Thursday: 7am - 11pm
- Friday: 7am - midnight
- Saturday: 10am - midnight



Porta Potties are Here to Stay: I am pleased that the Department of Parks believes that, upon completion of their retirement incentive program, elimination of some seasonal staff, and other budget considerations, it can cover the cost of keeping the portable toilets in our parks, with the help of community sponsors. Find more information [here](#).

Zoning Code Rewrite: The last time our County's Zoning Code was revised in a comprehensive way was 1977. Since then, it has grown by almost 900 pages. I am pleased that Planning Staff, in concert with input from the public, are rewriting the Code so that it better reflects today's development standards, simplifies land use, and prioritizes sustainability. You can follow the progress [here](#).

Bethesda Chevy Chase Restaurant Week Happening Now: Many of our finest restaurants in Bethesda and Chevy Chase are participating this year, offering prix fixe lunch for \$12-15 and three-course dinner menus for \$30. Click [here](#) for all the information and a list of participants.

Calling All Community Leaders

Civic and Homeowner Associations: In order to disseminate timely information that may be useful to your communities and neighborhoods, we would like to keep a comprehensive and updated database of District 1 civic and homeowners associations. Please help us by calling 240-777-7828 or emailing us at councilmember.berliner@montgomerycountymd.gov anytime with the name of your organization, the current president's name, e-mail address, street address and phone number. We promise to use the contact information judiciously and will not share it with any other parties.

My Office

As always, my staff and I look forward to hearing from you and to seeing you at community events.

Cindy Gibson is my Chief of Staff and handles land use; **Susan Buffone** focuses on transportation, environmental, and energy issues; **Lou D'Ovidio** follows Public Safety and Management and Fiscal Policy Committee issues; **Chad Bolt** focuses on Health & Human Services Committee and Education Committee issues; and **Beth Sylvester** handles constituent service, manages my busy calendar, and is the friendly voice on the other end of the phone when you call our office. All of them will try to facilitate your interaction with County government in any way that they can.

Thank you for your trust, and please let me know what I can do for you. It is truly a privilege to do this work, and I thank you for the opportunity.

Roger Berliner
Councilmember
District 1



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